

Annex 3

Bank Guarantee – Requirements

In accordance with Article 4.2 Paragraph 1, CAO shall accept *Bank Guarantees* under the conditions stated below.

Quality of the guarantee bank

The bank issuing the guarantee in favour of CAO Central Allocation Office GmbH (i.e. the guarantee bank) or the financial group, the guarantee bank belongs to, must conform to at least to one of the following requirements regarding its rating:

- a) Moody's - minimum "Baa3",
- b) Fitch/IBCA – minimum "BBB-",
- c) Standard & Poor's – minimum "BBB-".

Requirements regarding the form of the guarantee

- The guarantee must be written in English (letter of guarantee)

Data required in the letter of guarantee

The following data must be stated in the letter of guarantee:

- A particular sum, i.e. the maximum amount of fulfilment,
- Currency, namely EUR,
- The beneficiary's account (CAO Central Allocation Office GmbH), to which it shall be paid, i.e.: the current account No. xxx EUR. Bank's address: xxx,
- Exact identification of the guarantee bank,
- Beneficiary: CAO Central Allocation Office GmbH, Gute Änger 15, 85356 Freising, Germany,
- Exact identification of the committer,
- It must contain a reference to international rules issued by the International Chamber of Commerce in Paris, Uniform Rules for Contract Guarantees (No. 325) or Uniform Rules for Demand Guarantees (no. 458),
- The guarantee validity time – this is determined by the committer appropriately, with consent that for the purposes of guarantee calculation (credit limit), the beneficiary (CAO Central Allocation Office GmbH) shall administratively shorten this validity time by 12 calendar days, this is for the event of a possibility of a bank guarantee exercise.

The guarantee validity time must be at least:

- for the yearly Auction – from the deadline 2Y to the deadline 5Y for December + 12 calendar days (deadlines see Annex 2 of the *Allocation Rules*),

- for monthly Auctions – from the deadline **2M** to the deadline **5M** for relevant monthly Auction + 12 calendar days (deadlines see Annex 2 of the *Allocation Rules*),
- for daily Auctions – from the date of Auction to the deadline **2D** for relevant month (month of Auction) + 12 calendar days (deadlines see Annex 2 of the *Allocation Rules*).
- Effectiveness of the guarantee, which is given by the date of issue,
- Conditions for a bank guarantee exercise, in particular:
 - Disbursement upon initial request (instantly) without any objections,
 - Being Irrevocable,
 - Being Unconditional,
 - Being Nontransferable,
- A form of exercise of the beneficiary to the guarantee (bank), namely a written request (beneficiary's affirmation), sent as a registered letter together with a copy of the issued, unpaid invoice where the decisive date is the date of receipt by the bank,
- Information that a partial and multiple fulfilment is allowed, up to the maximum amount of the sum.

Unauthorised provisions

In the letter of guarantee, the following must not be stated:

- conditions which are contrary to the requirements of the beneficiary for the letter of guarantee,
- conditions which would in a substantial manner modify the beneficiary's requirements regarding the letter of guarantee,
- anything other than the conditions stated for exercising the bank guarantee.

Example of Letter of Guarantee

Letter of Guarantee

CAO Central Allocation Office GmbH
Gute Änger 15
85356 Freising
Germany

Bank Guarantee No.

We have been informed that**name of company, address**..... (the "Committer") will participate in "Coordinated Auction of Transmission Capacity in the CEE-Region" (the "Auction Process").

The obligation to pay for the Committer's participation in the Auction Process is to be secured by a bank guarantee.

Upon the Committer's instructions we,**Name of Bank, address**....., Id. No., entered in the Commercial Register kept with the Municipal Court in, hereby issue in your favour an irrevocable and unconditional guarantee up to the maximum amount of

EUR 00.000,00

in Words: EURO

and undertake to pay you upon receipt by us of your first request in writing without delay or objection to your EUR account No. **xxx held by xxx**, any amount or amounts up to the total amount guaranteed by us provided such request is in compliance with all terms and conditions of this Letter of Guarantee and contains your statement in writing that**name of company, address**..... has failed to pay for reservation of capacity according to Rules for Coordinated Auction of Transmission Capacity in the CEE-Region (the "Request"). Your Request must include a copy of the issued, unpaid invoice when due. Our bank is not responsible for the validity and correctness of presented documents.

Your Request addressed to us at**Name of Bank, address**....., shall be delivered to us not later than the date of expiry mentioned below of this guarantee.

Your Request relative to our guarantee shall be in writing and the validity and authorization of your signatures shall be verified by your bank and shall be delivered to us by registered mail or courier.

The amount of our guarantee shall decrease by every payment made by us thereunder. The guarantee ceases to be valid upon the payment of the total amount guaranteed by us.

This guarantee will become effective on the date of its issue and is valid until**date**..... inclusive. Following the lapse of the date our guarantee ceases to be valid.

This guarantee also ceases to be valid following the lapse of the date of receipt by us (return to us) of this original Letter of Guarantee provided such return takes place prior to the stated date of expiry of this guarantee.

This guarantee is not assignable.

This guarantee shall be governed by the laws of the ... and shall be subject to the Uniform Rules for Demand Guarantees, published as No. 458 by the International Chamber of Commerce, except as stated above.

The return of the original of this Letter of Guarantee to us is requested after its expiry.